

## **REMARKS**

### **Summary of the Office Action**

Claims 12 and 14 are objected to because of informalities. Both claims contain the text “device for performing an warning”. Claim 17 is objected to because of informalities. Claim 17 contains the text “(ii) when staring the reproduction. . .”. Claims 1-14, and 16-17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fuchigami et al. (U.S. Patent No. 6,160,953) (hereinafter “Fuchigami”). Fuchigami does not qualify as prior art under §102(b) because its issue date does not precede the filing date of the instant application. To the extent that it is reapplied under some other section of §102, it is traversed as follows. Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Fuchigami as applied to claim 8 above, and further in view of Mizoguchi et al. (U.S. Patent No. 6,169,847) (hereinafter “Mizoguchi”).

### **Summary of the Response to the Office Action**

Applicants have amended claims 12, 14, and 17 to respond to the Examiner’s objections and adopt his helpful suggestions. Also, new claims 18-38 are added in order to differently describe the invention and provide the Applicants with scope to which they are entitled. Accordingly, claims 1-38 are presently pending.

### **The Objections to Claims 12, 14 and 17**

Claims 12 and 14 are objected to because of informalities. Both claims contain the text “device for performing an warning”. Claim 17 is objected to because of informalities. Claim 17 contains the text “(ii) when staring the reproduction. . .”. Applicants have amended claims 12, 14, and 17 to respond to the Examiner’s objections and adopt his helpful suggestions. Accordingly, it is respectfully requested that all objections to the claims be withdrawn.

**The Rejections under 35 U.S.C. §§ 102(b) and 103(a)**

Claims 1-14, and 16-17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fuchigami. Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Fuchigami as applied to claim 8 above, and further in view of Mizoguchi. Applicants respectfully traverse these rejections because the applied references fail to anticipate or render obvious the claimed invention.

With regard to independent claims 1, 8 and 16, Applicants respectfully submit that Fuchigami does not teach or suggest the claimed combination, including at least the recited features of “a control information recording area on which control information required to reproduce the plurality of audio information recorded on the audio information recording area is recorded.”

The Office Action alleges that the “control information recording area” limitations of independent claims 1, 8 and 16 are met by Fuchigami because Col. 6, lines 54-58 of Fuchigami discloses that “the encoder apparatus inserts discrimination data into the ADI sections of the audio packets, which indicates that the audio portion of each packet has been recorded using a special stream mode.” Applicants respectfully traverse the Office Action’s interpretation of this applied reference. Fuchigami only teaches discrimination data “which indicates that the audio portion of each packet has been recorded,” but fails to teach or suggest discrimination data required “to reproduce the plurality of audio information recorded on the audio information recording area,” as recited by independent claims 1, 8 and 16. Furthermore, Applicants respectfully submit that Fuchigami also fails to teach or suggest control information including “a plurality of first division information for identifying first division units respectively so as to divide each of the plurality of audio information recorded on the audio information recording

area by the first division units respectively,” as recited by each of independent claims 1, 8 and 16.

With regard to independent claim 7, Applicants respectfully submit that Fuchigami does not teach or suggest the claimed combination, including at least the recited features of “a video area on which information including mainly video information and audio information associated with the video information is recorded” in combination with “an audio area on which audio information is mainly recorded.”

The Office Action alleges that the “video area” limitations of independent claim 7 are met by Fig. 21 of Fuchigami which illustrates a video pack. However, Applicants respectfully traverse the Office Action’s interpretation of this applied reference. Fuchigami fails to teach or suggest “audio information associated with the video information,” as recited by independent claim 7. Furthermore, Applicants respectfully submit that Fuchigami also fails to teach or suggest control information including “a plurality of first division information for identifying first division units respectively so as to divide each of a plurality of audio information recorded on the video area or audio area by the first division units respectively,” as recited by independent claim 7.

Applicants respectfully assert that the rejections under 35 U.S.C. §§ 102(b) and 103(a) should be withdrawn because the applied references do not teach or suggest each feature of independent claims 1, 7, 8 and 16. As pointed out in MPEP § 2131, “[t]o anticipate a claim, the reference must teach every element of the claim.” Thus, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).” Similarly, MPEP § 2143.03 instructs that “[t]o establish prima facie

obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974)." Furthermore, Applicants respectfully assert that dependent claims 2-6, 9-15 and 17 are allowable at least because of their respective dependence upon independent claims 1, 8 and 16, and the reasons set forth above.

#### **Newly-Added Claims 18-38**

Claims 18-38 have been added in order to differently describe the invention and provide the Applicants with scope to which they are entitled. It is respectfully submitted that these claims are in condition for allowance over the art of record.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached pages are captioned "**Versions with Markings to Show Changes Made.**"

#### **CONCLUSION**

In view of the foregoing, Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required,

including any required extension of time fees, or credit any overpayment to Deposit Account

50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR**

**EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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Dated: November 21, 2002

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE CLAIMS:**

Claims 12, 14, and 17 are amended as follows:

12. (Amended) An information reproducing apparatus according to Claim 8, further comprising a warning display device for performing a ~~{an}~~ warning display on the basis of the designation information or the set information if the recording method selected by the selecting device cannot be processed by the information reproducing apparatus.

14. (Amended) An information reproducing apparatus according to Claim 8, further comprising:

a re-writing device for re-writing a content of set information stored in the memory device; and

a warning display device for performing a ~~{an}~~ warning display if the recording method selected by the selecting device on the basis of the designation information or the set information cannot be processed by the information reproducing apparatus,

the selecting device selecting the recording method, on the basis of (i) designation information inputted by the inputting device, (ii) set information re-written by the re-writing device and (iii) initial set information stored in the memory device in an initial setting condition, in this priority order, as long as the warning display is not performed by the warning display device.

17. (Amended) An information reproducing apparatus according to Claim 16, further comprising an audio information processing device for reading out the audio information

corresponding to a time duration required for switching the reproduction of the audio information when the audio information switching device switches the reproduction of the audio information,

wherein, (i) while switching the audio information, the audio information switching device reproduces the audio information divided by the second division unit to which the previously reproduced audio information belongs and (ii) when **starting** ~~[starting]~~ the reproduction of the audio information divided by the second division unit after switching, the audio information switching device reads out the audio information at a point corresponding to the elapsed time of the audio information divided by the second division unit, which is currently being reproduced and is identified by the same second division information as that identifies the second division unit to which the audio information before switching belongs, and actually switches the reproduction of the audio information from the point corresponding to the elapsed time.

Claims 18-38 have been newly-added.